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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,719	05/04/2000	TADASHI YAMAURA	2565-198P	3186

2292 7590 09/20/2004

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EXAMINER
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AZAD, ABUL K

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 09/20/2004

33

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/530,719

**Applicant(s)**

YAMAURA, TADASHI

**Examiner**

ABUL K. AZAD

**Art Unit**

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 31.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the communication filed on July 19, 2004.
2. Claims 19-22 are pending in this action.
3. The applicant's arguments with respect to claims 19-22 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Nomura et al. (C 2,112,145).

As per claim 19, Nomura teaches, "a speech decoding apparatus according to code-excited linear prediction, wherein the speech decoding apparatus receives a coded speech including a gain code and synthesizes a speech" (Page 5, lines 11-13), the speech decoding apparatus comprising:

"a gain decoder for receiving the gain code and for decoding a gain of a speech in a concerning decoding period based on the gain code input" (Page 6, lines 10-23 and Fig. 1, element 140, speech decoder );

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“a noise level evaluator for evaluating a noise level of the speech in concerning decoding period by using the gain decoded by the gain decoder” (Fig. 1, element 110, error detection unit and Page 9, line 18 to Page 10, line 28);

“an excitation codebook storing time series vectors” (Page 9, lines 18-27, excitation code book and excitation code vector)

“a noise level controller for changing a noise level of time series vectors output from an excitation codebook based on an evaluation result of the noise level evaluator” (Page 9, lines 18-27).

As per claim 21, it is interpreted and thus rejected for the same reasons set for in the rejection of claim 19.

As per claim 20, Nomura teaches, “a speech decoding apparatus according to code-excited linear prediction, wherein the speech decoding apparatus receives a coded speech including a linear prediction parameter code, an adaptive code, an excitation code, and a gain code and synthesizes a speech” (Page 5, lines 11-28), the speech decoding apparatus comprising:

- an adaptive codebook (Fig. 7, element 740);
- an excitation codebook (Fig. 7, element 750);
- a gain decoder (Fig. 1, element 140)
- a noise level evaluator (Fig. 1, element 110)
- a noise level controller (Fig. 1, elements 150 and 160)
- a weighting-adder (Fig. 3, element 330 and 340)
- a linear predictive parameter decoder (Fig. 5, element 560)

-a synthesis filter (Fig. 5, element 570).

As per claim 22, it is interpreted and thus rejected for the same reasons set forth in the rejection of claim 20.

### ***Response to Arguments***

6. The applicant argues that Nomura's voiced/unvoiced judging unit does not use decoded gain.

The examiner disagrees with the applicant's assertion because Nomura teaches clearly voiced/unvoiced judging unit does uses decoding gain, for example see page 6, lines 11-23, particularly reads on "gains of the adaptive and excitation codebooks and amplitude of the speech signal, and outputs the result of decoding to a voiced/unvoiced frame judging unit 170", here comparison is made based on the decoded gain of current frame with decoded gain of non-error previous frame.

7. The applicant further argues, "there is no disclosure in Nomura that either of these bad frame masking units 150 and 160 actually evaluates a noise level. Also, there is no disclosure that the bad frame masking units 150 and 160 use a decoded gain for the current frame or decoding period".

The examiner disagrees with the applicant's above assertion because Nomura teaches a noise error detection unit evaluates the noise level based on the decoded gain of the current frame and input to the frame masking units 150 and 160 see for example Fig. 1, elements 110, 150 and 160; and Fig. 7, also equation 4.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-3838**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(703) 305-9645**.

Any response to this action should be mailed to:

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

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Or faxed to:

**(703) 872-9314**

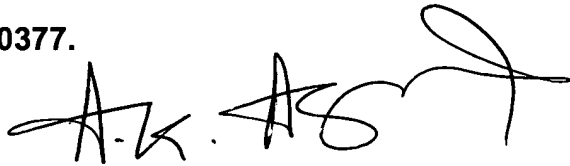
(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 2121 Crystal Drive, Arlington,

VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center's Customer Service Office at telephone number

**(703) 306-0377.**

A handwritten signature in black ink, appearing to read 'A.K. Azad', with a stylized flourish at the end.

Abul K. Azad

September 13, 2004